

UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

Lisa McElveen,

Case No.: 2:20-cv-01226-JAD-NJK

Plaintiff

v.

Order Dismissing Case

Aargon Agency, Inc. d/b/a Aargon Collection
Agency

Defendant

Previously I gave plaintiff Lisa McElveen until February 5, 2021, to show cause in writing why her claims against the defendant should not be dismissed without prejudice for failing to obey a court order.¹ That deadline has passed, and McElveen has filed nothing since my order, including any response to the show-cause order. District courts have inherent power to control their dockets and “in the exercise of that power, they may impose sanctions including, where appropriate . . . dismissal” of a case.² A court may dismiss an action based on a party’s failure to prosecute an action, failure to obey a court order, or failure to comply with local rules.³ In resolving whether to dismiss an action on one of these grounds, district courts must consider: (1) the public’s interest in expeditious resolution of litigation; (2) the court’s need to manage its

¹ ECF No. 11.

² *Thompson v. Hous. Auth. of City of Los Angeles*, 782 F.2d 829, 831 (9th Cir. 1986).

³ See *Ghazali v. Moran*, 46 F.3d 52, 53–54 (9th Cir. 1995) (dismissal for noncompliance with local rule); *Ferdik v. Bonzelet*, 963 F.2d 1258, 1260–61 (9th Cir. 1992) (dismissal for failure to comply with an order requiring amendment of complaint); *Carey v. King*, 856 F.2d 1439, 1440–41 (9th Cir. 1988) (dismissal for failure to comply with local rule requiring pro se plaintiffs to keep court apprised of address); *Malone v. U.S. Postal Service*, 833 F.2d 128, 130 (9th Cir. 1987) (dismissal for failure to comply with court order); *Henderson v. Duncan*, 779 F.2d 1421, 1424 (9th Cir. 1986) (dismissal for lack of prosecution and failure to comply with local rules).

1 docket; (3) the risk of prejudice to the defendants; (4) the public policy favoring disposition of
2 cases on their merits; and (5) the availability of less drastic alternatives.⁴

3 The first two factors, the public's interest in expeditiously resolving this litigation and the
4 court's interest in managing its docket, weigh in favor of dismissal. The third factor, risk of
5 prejudice to defendants, also weighs in favor of dismissal because a presumption of injury arises
6 from the occurrence of unreasonable delay in filing a pleading ordered by the court or
7 prosecuting an action.⁵ A court's warning to a party that its failure to obey the court's order will
8 result in dismissal satisfies the fifth factor's "consideration of alternatives" requirement. And
9 that warning was given here.⁶ The fourth factor—the public policy favoring disposition of cases
10 on their merits—is greatly outweighed by the factors favoring dismissal.

11 IT IS THEREFORE ORDERED that this case is **DISMISSED without prejudice** for
12 failure to follow a court order and want of prosecution. The Clerk of Court is directed to
13 ENTER JUDGMENT accordingly and **CLOSE THIS CASE**.

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15 U.S. District Judge Jennifer A. Dorsey
16 February 10, 2021
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22 ⁴ *Thompson*, 782 F.2d at 831; *Henderson*, 779 F.2d at 1423–24; *Malone*, 833 F.2d at 130;
Ferdik, 963 F.2d at 1260–61; *Ghazali*, 46 F.3d at 53.

23 ⁵ *Ferdik*, 963 F.2d at 1262; *Malone*, 833 F.2d at 132–33; *Henderson*, 779 F.2d at 1424.

⁶ ECF No. 11.